

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
The Boeing Company)	IBFS File No.
Application for Authority to Launch and)	SAT-LOA-20160622-00058
Operate a Non-Geostationary Low Earth Orbit)	
Satellite System in the Fixed Satellite Service)	

OPPOSITION OF THE SATELLITE INDUSTRY ASSOCIATION

The Satellite Industry Association (“SIA”)¹ hereby submits this Opposition to the procedural objections raised by representatives of the terrestrial wireless industry (the “Wireless Parties”) in pleadings seeking the dismissal of the above-captioned satellite application (the “Boeing Application”).² The International Bureau (“Bureau”) has accepted the Boeing

¹ This Opposition is supported by all SIA members except for DIRECTV, which abstains from participation in this proceeding.

SIA is a U.S.-based trade association providing representation of the leading satellite operators, service providers, manufacturers, launch services providers, and ground equipment suppliers. For more than two decades, SIA has advocated on behalf of the U.S. satellite industry on policy, regulatory, and legislative issues affecting the satellite business. SIA Executive Members include: The Boeing Company; DIRECTV; EchoStar Corporation; Intelsat S.A.; Iridium Communications Inc.; Kratos Defense & Security Solutions; Ligado Networks; Lockheed Martin Corporation; Northrop Grumman Corporation; OneWeb; SES Americom, Inc.; Space Exploration Technologies Corp.; SSL; and ViaSat, Inc. SIA Associate Members include: ABS US Corp.; Artel, LLC; COMSAT Inc.; DigitalGlobe Inc.; DRS Technologies, Inc.; Eutelsat America Corp.; Global Eagle Entertainment; Glowlink Communications Technology, Inc.; Hughes; iDirect Government Technologies; Inmarsat, Inc.; Kymeta Corporation; L-3 Electron Technologies, Inc.; O3b Limited; Panasonic Avionics Corporation; Planet; Semper Fortis Solutions; TeleCommunication Systems, Inc.; Telesat Canada; TrustComm, Inc.; Ultisat, Inc.; and XTAR, LLC.

² See, e.g., Comments of Competitive Carriers Association (filed Dec. 1, 2016) (“CCA Comments”); Petition to Deny of CTIA (filed Dec. 1, 2016) (“CTIA Petition”); Comments of FiberTower Spectrum Holdings, LLC on the Boeing V-Band Application (filed Dec. 1, 2016) (“FiberTower Comments”); Opposition of Straight Path Communications Inc. (filed Dec. 1,

Application for filing and initiated a processing round for additional proposals for non-geostationary orbit (“NGSO”) satellite systems in the 37.5-40.0 GHz, 40.0-42.0 GHz, 47.2-50.2 GHz and 50.4-51.4 GHz frequency bands (the “V-band” frequencies).³ That processing round has the potential to facilitate broadband access to all Americans and is in keeping with prior Bureau and other Federal Communications Commission (“Commission”) decisions to consider innovative applications during the pendency of related rulemaking proceedings and, where appropriate, grant such applications conditioned on compliance with rules to be adopted in those rulemaking proceedings. Accordingly, the Bureau should reject the procedural objections of the Wireless Parties and consider the Boeing Application on the merits, as well as any other timely filed NGSO V-band satellite proposal.⁴

The satellite industry plays a key role in the U.S. broadband ecosystem and is critical to achieving the longstanding goal of nationwide deployment of high-speed advanced communications services, ensuring that all Americans have access to equally high quality, affordable, and competitive broadband services.⁵ Allowing the V-band satellite network

2016); Opposition of T-Mobile USA, Inc. (filed Dec. 1, 2016) (“T-Mobile Opposition”); Opposition of 5G Americas (filed Dec. 1, 2016) (“5G Americas Opposition”).

³ The processing round deadline for V-band proposals is March 1, 2017. *See* Public Notice, Boeing Application Accepted for Filing in Part, IBFS File No. SAT-LOA-20160622-00058, DA 16-1244 (rel. Nov. 1, 2016). A number of parties have submitted proposals already. *See, e.g., Audacy Corporation, Application for Authority to Launch and Operate a Non-Geostationary Medium Earth Orbit Satellite System in the Fixed- and Inter-Satellite Services*, Application, IBFS File No. SAT-LOA-20161115-00117 (filed Nov. 15, 2016); *ViaSat, Inc., Petition for Declaratory Ruling Granting Access to the U.S. for a Non-U.S.-Licensed Nongeostationary Orbit Satellite Network*, Petition for Declaratory Ruling, IBFS File No. SAT-LOI-20161115-00120 (filed Nov. 15, 2016).

⁴ It is SIA’s practice to refrain from taking a position on the merits of any individual company’s application, such as the Boeing Application.

⁵ *See, e.g.,* Comments of the Satellite Industry Association, GN Docket No. 14-177, *et al.* (filed Sept. 30, 2016) (“SIA Comments”); Reply Comments of the Satellite Industry Association, GN Docket 14-177, *et al.* (filed Oct. 31, 2016) (“SIA Reply Comments”).

proposals of Boeing and other NGSO parties that may participate in the V-band NGSO processing round to move forward during the pendency of any related rulemaking proceeding will help fulfill these public interest objectives and also advance the position of the United States as a global space leader.

Nothing in the objections of the Wireless Parties warrants a different conclusion. The primary procedural arguments of the Wireless Parties are that the pendency of the second phase of the *Spectrum Frontiers* proceeding⁶ and the scope of the requested waivers regarding spectrum allocations and designations somehow preclude consideration of the Boeing Application.⁷ These contentions are easily dispelled. To the extent that the application in question meets the Commission's basic procedural requirements for filing an application⁸ and the applicant has indicated a willingness to accept a license grant conditioned on the outcome of the relevant proceedings,⁹ there is no procedural basis for rejecting that application outright.

⁶ See *Use of Spectrum Bands Above 24 GHz For Mobile Radio Services, et al.*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd. 8014 (2016) ("*Spectrum Frontiers*").

⁷ See, e.g., CCA Comments at 3 ("The Commission should not allow Boeing to ... gain[] robust access to this important 5G spectrum before the *Spectrum Frontiers* proceeding concludes."); CTIA Petition at 4 ("Boeing should not be allowed to circumvent significant domestic spectrum debates by virtue of the satellite application process."); T-Mobile Opposition at 1-2 ("Even if there were not a current proceeding addressing the spectrum specified in the Application, the fundamental changes to spectrum use contemplated by the Application could only be resolved in a rulemaking proceeding"); 5G Americas Opposition at 2 (same).

⁸ See generally Boeing Application; see also Comments of Space Exploration Technologies Corp., at 4-7 (filed Dec. 1, 2016). Two commenters have stated that the Commission should consider the Boeing Application together with other NGSO V-band satellite proposals filed by the processing round deadline. See Comments of SES S.A. and O3B Limited at 1 (filed Dec. 1, 2016); Comments of ViaSat, Inc. at 4 (filed Dec. 1, 2016). For the avoidance of doubt, SIA takes no position regarding the timing of the Commission's consideration of the Boeing Application vis-à-vis other NGSO V-band satellite proposals filed in the current processing round.

⁹ See Boeing Application at 56, 58, 60, 61, and 64.

Indeed, the actions of the Bureau are in keeping with prior Bureau and Commission decisions to accept for filing and commence evaluation of innovative applications prior to the completion of related rulemaking proceedings. For example, in 1995 the Bureau accepted for filing and began evaluating, pursuant to a satellite processing round, more than a dozen applications for geosynchronous orbit and NGSO satellite systems operating in the Ka-band frequencies while the related rulemaking proceeding regarding the shared use of those frequencies with terrestrial systems was pending.¹⁰ Accordingly, the Bureau granted each application conditioned on the licensee's compliance with Commission rules to be adopted in the future.¹¹

Similarly, in 1999, the Bureau accepted for filing and began evaluating, pursuant to a satellite processing round, nine applications for NGSO satellite systems operating in the Ku-band frequencies while the related rulemaking proceeding regarding the shared use of those frequencies was still pending.¹² Indeed, it is not uncommon for Commission bureaus to grant

¹⁰ See *Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, to Reallocate the 29.5-30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services*, Third Report and Order, 12 FCC Rcd. 22310 ¶¶ 6-13 (1997).

¹¹ See, e.g., *Teledesic Corp. Application for Authority to Construct, Launch, and Operate a Low Earth Orbit Satellite System in the Domestic and International Fixed Satellite Service*, Order and Authorization, 12 FCC Rcd. 3154 ¶¶ 10, 14 (IB 1997); *GE American Communications, Inc. Application for Authority to Construct, Launch, and Operate a Ka-band Satellite System in the Fixed Satellite Service*, Order and Authorization, 12 FCC Rcd. 6475 ¶¶ 11, 14 (IB 1997); *Hughes Communications Galaxy, Inc., Application for Authority to Construct, Launch, and Operate a Ka-band Satellite System in the Fixed-Satellite Service and a Ku-band Broadcast Communications Satellite System*, Order and Authorization, 13 FCC Rcd. 1351 ¶¶ 11, 14 (IB 1997).

¹² See *Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range, et al.*, First Report and Order and Further Notice of Proposed Rule Making, 16 FCC Rcd. 4096 ¶¶ 3-18 (2000), *denying recon. in part and granting recon. in part*, Second Memorandum Opinion and Order, 18 FCC Rcd. 2324 (2003).

license applications pending the outcome of related rulemaking proceedings.¹³ Such an approach recognizes that evaluating applications for innovative services concurrently with related rulemaking proceedings has the potential to expedite the provision of state-of-the-art services.

Thus, the Boeing Application is not premature, as the Wireless Parties allege, and the pendency of the *Spectrum Frontiers* proceeding or any other rulemaking proceeding provides no basis for the dismissal of the application. Indeed, as explained above, the Commission is not required to complete the next phase of the *Spectrum Frontiers* proceeding before the Bureau takes substantive action on the Boeing Application.¹⁴ For these reasons, the Bureau should reject the procedural objections of the Wireless Parties and consider, on the merits, the Boeing

¹³ See, e.g., *Application of SkyBridge L.L.C. for Authority to Launch and Operate a Global Network of Low-Earth Orbit Communications Satellites Providing Broadband Services in the Fixed-Satellite Service*, Order and Authorization, 20 FCC Rcd. 12389 ¶ 28 (IB 2005) (“SkyBridge’s operations in this [12.75-13.25 GHz] band will be subject to the coordination procedures [to be] developed in the [12.75-13.25 GHz band coordination] proceeding.”); *Applications of Northrop Grumman Space & Mission Systems Corporation for Authority to Operate a Global Satellite System Employing Geostationary Satellite Orbit and Non-Geostationary Satellite Orbit Satellites in the Fixed-Satellite Service in the Ka-band and V-band*, Order and Authorization, 24 FCC Rcd. 2330 ¶ 55 (IB 2009) (granting Northrop Grumman authorization for a satellite system operating, *inter alia*, in the V-band frequencies “subject to any subsequent service rules [the Commission] adopts”); *Applications of The Boeing Company*, Order and Authorization, 18 FCC Rcd. 12317 ¶ 18 (IB and OET 2003) (granting satellite applicant waiver request to operate in frequency band but withholding authority pending adoption of coordination rules for shared operations); *Deere & Company Request for Limited Waiver of Part 15 Rules for Fixed White Spaces Devices*, Opinion, 31 FCC Rcd. 2131 (OET 2016) (granting waiver request of the geo-location requirement for fixed white space devices pending the outcome of a related white spaces rulemaking proceeding); *City of Mesa, Arizona, Request for Waiver of Section 90.531(b)(1)(iii) of the Commission’s Rules*, Order, 26 FCC Rcd. 8466 (PSHSB 2011) (granting waiver request for a deployable trunked facility to exceed the maximum number of trunked, interoperable channels pending the outcome of a rulemaking proceeding regarding the deployment of mobile trunked infrastructure); *Requests for Waiver for End-of-Train Devices to Exceed Power Limit for Telemetry Operations in the 450-470 MHz Band*, Order, 25 FCC Rcd. 16986 (WTB 2010) (granting waiver request allowing the operation of end-of-train devices to operate at a power level higher than permissible under the Commission’s rules pending the outcome of a related rulemaking proceeding).

¹⁴ Cf., T-Mobile Opposition at 9, 12; CCA Comments at 3; CTIA Petition at 4; 5G Americas Opposition at 6; FiberTower Comments at 2.

Application as well as any other timely filed NGSO V-band satellite proposal filed in the pending processing round.

The satellite V-band proposals filed in the pending processing round have the potential of facilitating deployment of high quality, affordable, and competitive broadband services to all Americans. There is a strong demand for such services and in some areas these satellite services may be the only option for an affordable, reliable, high-capacity Internet connection.¹⁵ Therefore, their consideration contemporaneously with any related rulemaking proceeding serves the public interest.

Respectfully submitted,

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¹⁵ See, e.g., SIA Comments; SIA Reply Comments.

CERTIFICATE OF SERVICE

I, Tom Stroup, hereby certify that on December 12, 2016, I caused a copy of the foregoing Opposition of the Satellite Industry Association to be served by U.S. first-class mail, postage paid, upon each of the following:*

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/s/ Tom Stroup
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* SIA was unable to serve several parties that filed pleadings in this proceeding because those parties failed to provide their respective contact information.